

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH S. THOMAS,  
Petitioner,

v.

ARNOLD SCHWARZENEGGER,  
Respondent.

No. C 07-01219 SBA (PR)

**ORDER GRANTING APPLICATION TO  
TRANSFER PETITION**

(Docket no. 7)

Petitioner Kenneth Thomas, a state prisoner, has filed a pro se petition for a writ of habeas corpus.

Respondent has filed an application to transfer the instant petition to the Eastern District of California (docket no. 7). Petitioner opposes the transfer.

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. See id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner is incarcerated at Centinela State Prison in Imperial County, which lies within the venue of the Southern District of California. See 28 U.S.C. § 84. He challenges his conviction and sentence incurred in the Placer County Superior Court, which is in the venue of the Eastern District of California. See 28 U.S.C. § 84.

1 Respondent argues that "[a]lthough the United States District Court for the Southern District  
2 and the United States District Court for the Eastern District have concurrent jurisdiction, in terms of  
3 traditional venue consideration, the Eastern District is clearly the most appropriate forum for  
4 adjudication. It is in the Eastern District that the material events took place, that all pertinent  
5 records are currently located, and that all critical witnesses currently reside with respect to the  
6 conviction he challenges." (Resp't Application for Transfer at 2.)

7 Because Petitioner is challenging his conviction and sentence, his petition should be handled  
8 by the district of conviction. See Dannenberg, 831 F. Supp. at 767. Pursuant to 28 U.S.C. § 1406(a)  
9 and Habeas L.R. 2254-3(b), and in the interest of justice, the Clerk of the Court is ordered to  
10 TRANSFER this action forthwith to the United States District Court for the Eastern District of  
11 California.

12 This Order terminates Docket no. 7.

13 IT IS SO ORDERED.

14 DATED: 11/13/07

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

KENNETH S. THOMAS,  
Plaintiff,

Case Number: CV07-01219 SBA

**CERTIFICATE OF SERVICE**

v.

ARNOLD SCHWARZENEGGER et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 14, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kenneth S. Thomas P-78247  
Centinela State Prison  
2302 Brown Road  
P.O. Box 911  
Imperial, CA 92251

Dated: November 14, 2007

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk